

JS 44  
(Rev. 12/96)

## CIVIL COVER SHEET 1430

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

GERALD J VOGT, ELEANOR L. VOGT, ON  
BEHALF OF THEMSELVES AND ALL OTHERS  
SIMILARLY SITUATED.

CAMPBELL

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (TENNESSEE)  
(EXCEPT IN U.S. PLAINTIFF CASES)

## DEFENDANTS

VEECO INSTRUMENTS, INC., EDWARD BRAUN,  
JOHN REIN, JR.WEXLER, J. NASSAU  
COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (NEW YORK)  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
TRACT OF LAND INVOLVED.

## (c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

STULL STULL & BRODY  
6 E. 45TH ST., SUITE 500  
NEW YORK, NY 10017 (212) 687-7230

## ATTORNEYS (IF KNOWN)

BOYLE, M.J.  
ORIGINAL

## II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF  
(For Diversity Cases Only) AND ONE BOX FOR DEFENDANT)

- PTF DEF PTF DEF
- Citizen of This State ☒ 1 ☐ 2 Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
- Citizen of Another State ☐ 3 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

## IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- Transferred from
- ☐ 5 another district (specify)
- ☐ 6 Multidistrict Litigation
- Appeal to District Judge from Magistrate Judgment ☐ 7

## V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY - Med. Malpractice</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HSA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 OWB/DWW (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7809	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 490 Selective Service <input checked="" type="checkbox"/> 495 Securities/Commodities/Exchange <input type="checkbox"/> 675 Customer Challenge 12 USC 3410 <input type="checkbox"/> 801 Agricultural Acts <input type="checkbox"/> 802 Economic Stabilization Act <input type="checkbox"/> 803 Environmental Matters <input type="checkbox"/> 804 Energy Allocation Act <input type="checkbox"/> 805 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

## VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE.  
DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

CLASS ACTION PURSUANT TO §§10(b) AND 20(a) OF THE EXCHANGE ACT (15 USC §§78j(b) AND 78t(a)) AND RULE 10b-5 THEREUNDER (17 CFR § 240.10b-5), ALLEGING DISSEMINATION OF FALSE AND MISLEADING FINANCIAL INFORMATION TO THE INVESTING PUBLIC.

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
☒ UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NOVIII. RELATED CASE(S) (See instructions):  
IF ANY

JUDGE LEONARD D. WEXLER

DOCKET NUMBER 05 CV 889

DATE

MARCH 17, 2005

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP

JUDGE Wexler MAG. JUDGE Boyle

1430

ARBITRATION CERTIFICATION

I, AARON L. BRODY, counsel for GERALD J. VOGT, ELEANOR L. VOGT, do hereby certify pursuant to the Local Arbitration Rule Section 3(c), that to the best of my knowledge and belief the damages recoverable in the above captioned civil action exceed the sum of \$100,000 exclusive of interest and costs.

\_\_\_\_\_ Relief other than monetary damages is sought.

DISCLOSURE OF INTERESTED PARTIES - LOCAL RULE 9

Identify any corporate parents, subsidiaries or affiliates of named corporate parties:

NONE

Did the cause arise in Nassau or Suffolk County? YES

If you answered yes, please indicate which county. NASSAU

County of residence of plaintiff(s) (1) CAMPBELL (TENNESSEE)  
(2) \_\_\_\_\_  
(3) \_\_\_\_\_

County of residence of defendant(s) (1) NASSAU (NEW YORK)  
(2) \_\_\_\_\_  
(3) \_\_\_\_\_

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes ✓

No \_\_\_\_\_

Are you currently the subject of any disciplinary action(s) in this or any other state or federal court?

Yes \_\_\_\_\_ (If yes, please explain)

No ✓

Please provide your E-MAIL Address and bar code below. Your bar code consist of the initials of your first and last name and the last four digits of your social security number or any other four digit number registered by the attorney with the Clerk of Court.

(This information must be provided pursuant to local rule 11.1(b) of the civil rules) ATTORNEY  
BAR CODE AB 5850

E-MAIL ADDRESS ssbny@aol.com